

EXHIBIT 1

INTRODUCTION

Respondent George Engasser is a member of the Parks Commission for the City of Oroville (the “City”). He assumed office on April 26, 1999. As a member of the Parks Commission, Respondent is a designated employee of the City as defined in Section 82019, subdivision (c) of the Political Reform Act (the “Act”),¹ and in the City’s conflict of interest code.

As required by the Act and the City’s conflict of interest code, each designated employee must file an annual statement of economic interests by April 1st of each year (unless April 1st falls on a Saturday, Sunday, or official holiday, in which case the filing deadline is extended to the next regular business day).²

On the statement of economic interests, the designated employee must disclose his or her reportable economic interests held during the preceding calendar year.

For purposes of this Default, Decision and Order, Respondent’s violation of the Act is as follows:

As a designated employee of the City of Oroville, Respondent George Engasser failed to file a 2000 annual statement of economic interests by April 2, 2001, in violation of Section 87300 of the Government Code.

THE ADMINISTRATIVE PROCEDURE ACT

Pursuant to the California Administrative Procedure Act (the “APA”)³, a respondent is entitled to a hearing on the merits of an Accusation if the respondent files a Notice of Defense within 15 days after service of the Accusation. (Section 11506.) The APA further provides that a respondent’s failure to file a Notice of Defense within 15 days after service of an Accusation constitutes a waiver of the respondent’s right to a hearing. (Section 11506, subdivision, (c).) A default decision may be issued if the respondent fails to file a Notice of Defense with 15 days of service of the Accusation. (Section 11520, subdivision (a).)

On April 26, 2003, the Accusation in this matter was personally served on Respondent George Engasser. Proof of service of the Accusation is attached hereto as Attachment A. Along with the Accusation, the Enforcement Division served Respondent George Engasser with a “Statement to Respondent,” which notified him that he could request a hearing on the merits and warned him that, unless he filed a Notice of Defense was sent within fifteen days of service of the Accusation, he would be deemed to have waived his right to a hearing. Respondent George Engasser has failed to file a Notice of Defense.

¹ The Political Reform Act is contained in Government Code sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in sections 18109 through 18997 of Title 2 of the California Code of Regulations. All regulatory references are to Title 2, Division 6 of the California Code of Regulations, unless otherwise indicated.

² Regulation 18116.

³ The California Administrative Procedure Act is contained in Government Code sections 11370 through 11529.

SUMMARY OF THE LAW

An express purpose of the Act, as set forth in Section 81002, subdivision (c), is to ensure that the assets and income of public officials, that may be materially affected by their official actions, be disclosed, so that conflicts of interest may be avoided.

In furtherance of this purpose, Section 87300 requires every agency to adopt and promulgate a conflict of interest code. Section 87302, subdivision (a) provides that an agency's conflict of interest code must specifically designate the employees of the agency who are required to file statements of economic interests, disclosing their reportable investments, business positions, interests in real property, and sources of income. Under Section 82019, subdivision (c), and Section 87302, subdivision (a), the persons who are to be designated in an agency's conflict of interest code are the officers, employees, members, and consultants of the agency, whose position with the agency entails making, or participating in making, governmental decisions that may foreseeably have a material effect on one or more of the person's economic interests.

Under Section 87302, subdivision (b), an agency's conflict of interest code must require each designated employee of the agency to file an annual statement of economic interests, for each year that the employee remains in office, at a time specified in the agency's conflict of interest code, disclosing his or her reportable economic interests held during the preceding calendar year.

Under Section 87300, the requirements of an agency's conflict of interest code shall have the force of law, and any violation of those requirements shall be deemed a violation of the Act.

SUMMARY OF THE FACTS

According to the Oroville City Clerk, Respondent George Engasser has been a member of the Parks Commission for the City of Oroville since April 26, 1999. Under the provisions of the City's conflict of interest code, a member of the Parks Commission is a designated employee, and therefore required to file annual statements of economic interests, for each year that the member remains in office, by April 1st of the following year (unless April 1st falls on a Saturday, Sunday, or official holiday, in which case the filing deadline is extended to the next regular business day). As such, Respondent was required to file a 2000 annual statement of economic interests by April 2, 2001.

On March 1, 2001, Sharon Atteberry, Deputy City Clerk for the City of Oroville, sent a letter to Respondent, informing him that he was required to file a 2000 annual statement of economic interests by April 2, 2001. On March 30, 2001, Ms. Atteberry sent a second letter to Respondent, reminding him that his 2000 annual statement of economic interests was due by April 2, 2001.

According to the records maintained by the Oroville City Clerk's office, Respondent George Engasser failed to file a 2000 annual statement of economic interests by the April 2, 2001 due date.

On June 20, 2001, Ms. Atteberry sent a third letter to Respondent, advising him that his 2000 annual statement of economic interests was past due, and requesting that it be filed as soon as

possible. According to Ms. Atteberry, she contacted Respondent by telephone on June 20, 2001, and instructed him to file the statement immediately.

As Respondent still had not filed the statement as requested, on August 23, 2001, Ms. Atteberry sent a fourth letter to Respondent regarding his delinquent 2000 annual statement of economic interests. When the statement was not filed in response to her written notices, Ms. Atteberry referred the matter to the Enforcement Division of the Fair Political Practices Commission (the "FPPC").

Between March 7, 2002 and March 22, 2002, Mary Ann Kvasager, the SEI Coordinator for the Enforcement Division, left three telephone messages for Respondent, advising him that his 2000 annual statement of economic interests was past due, and instructing him to file the statement immediately.

According to investigative records maintained by the Enforcement Division, on March 22, 2002, Ms. Atteberry contacted Ms. Kvasager to advise the Enforcement Division that she had seen Respondent George Engasser on March 19, 2002, told him he needed to file his delinquent statement immediately, and provided him with a blank form 700, statement of economic interests.

Records maintained by the City of Oroville establish that Respondent George Engasser filed his 2000 annual statement of economic interests on April 2, 2002.

An enforcement action was initiated against Respondent with a Report in Support of a Finding of Probable Cause being served on him on February 20, 2003. Along with the Report in Support of a Finding of Probable Cause, Respondent was served with a document explaining the administrative enforcement process and informing him that he had 21 days in which to request a Probable Cause Conference with the Executive Director of the FPPC, to present any defenses that he may have. Respondent made no request for a Probable Cause Conference. On April 7, 2003, Executive Director Mark Krausse issued an Order Finding Probable Cause that Respondent had committed the alleged violation. On April 8, 2003, this Order was served on Respondent.

Respondent was then personally served with an Accusation in this matter, on April 26, 2003. Along with the Accusation, Respondent was served with a "Statement to Respondent," which explains the statutory requirement that Respondent must return a Notice of Defense within 15 days or else he will have waived his right to a hearing. Also served on Respondent were two copies of the Notice of Defense form, a copy of the Order Finding Probable Cause, and copies of the relevant portions of the Act.

Respondent did not submit a Notice of Defense, and the Enforcement Division has not received any communication from Respondent after the Accusation was served, or at any other time in this matter.

CONCLUSION

This matter consists of one count of violating Section 87300, which carries a maximum administrative penalty of Five Thousand Dollars (\$5,000). Under the SEI Expedited Procedures adopted by the Commission in July 1999, the approved administrative penalty for a person, such as Respondent George Engasser, who files a delinquent statement of economic interests within 30 days of being contacted by the SEI Coordinator for the Enforcement Division, and agrees to an early resolution of his or her case, is \$200-\$300. However, unlike those cases, although Respondent filed the delinquent statement within 30 days, he did not agree to an early resolution of this matter as provided under the SEI Expedited Procedures program. This case was therefore removed from the SEI Expedited Procedures Program.

The administrative penalty for SEI filing violations resolved outside of the SEI Expedited Procedures program historically has been determined on a case-by-case basis. In recent cases where a respondent filed a delinquent statement within 30 days of being contacted by the Enforcement Division SEI Coordinator, but failed to respond to any of the Enforcement Division's attempts to resolve the matter until after the issuance and service of an accusation, the Commission imposed an administrative penalty of \$600 for the SEI filing violation. In this case, Respondent filed his delinquent statement within 30 days after being contacted by the Enforcement Division SEI Coordinator, but he failed to respond to any of the Enforcement Division's attempts to resolve the matter. Therefore, a higher penalty, that reflects the aggravating and mitigating factors of this case, as well as the non-resolution of this matter, is appropriate.

Accordingly, the facts of this case justify imposition of an administrative penalty of One Thousand Two Hundred Dollars (\$1,200).